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August 13, 1998

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**AUG 13 1998**

Magalie Roman Salas, Esq.  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Comments of FaciliCom International L.L.C. in Support of Proposed Rule  
Changes; IB Docket No. 98-118

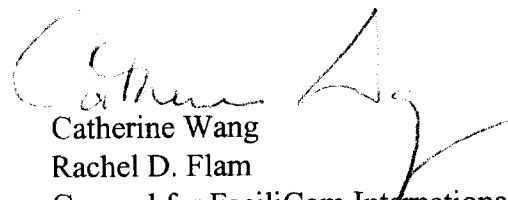
Dear Secretary Salas:

Transmitted herewith on behalf of FaciliCom International, L.L.C., please find an original plus four (4) copies of the "COMMENTS OF FACILICOM INTERNATIONAL, L.L.C. IN SUPPORT OF PROPOSED RULE CHANGES" to be filed in the above-referenced proceeding.

Please date-stamp the enclosed extra copy of this filing and return it with the messenger to acknowledge receipt by the Commission.

If you have any questions regarding this submission, please do not hesitate to contact me.

Very truly yours,

  
Catherine Wang  
Rachel D. Flam  
Counsel for FaciliCom International, L.L.C.

Enclosures

cc: Douglas Klein  
Linda Jacobson  
Douglas D. Orvis

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

AUG 13 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

1998 Biennial Review -  
Review of International Common Carrier  
Regulations

IB Docket No. 98-118

COMMENTS OF FACILICOM INTERNATIONAL, L.L.C. IN SUPPORT OF  
PROPOSED RULE CHANGES

I. Introduction

FaciliCom International, L.L.C. ("FaciliCom"), through its undersigned counsel and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415 (1997), hereby submit these comments in support of the Commission's proposed rules and rule modifications in the above captioned proceeding.<sup>1</sup> FaciliCom is licensed by this Commission to provide international telecommunications services on a resold and facilities-based basis.

FaciliCom applauds the Commission's efforts to eliminate or streamline unnecessary or unduly burdensome regulations in the competitive international telecommunications marketplace. In particular, FaciliCom strongly supports the Commission's proposed changes that provide carriers with greater flexibility in corporate and technical matters. Specifically, the Commission's proposed changes regarding *pro forma* transfers of control, use of non-U.S.

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<sup>1</sup> 1998 Biennial Regulatory Review - Review of International Common Carrier Regulations, *Notice of Proposed Rulemaking*, IB Docket No. 98-118 July 14, 1998 ("Notice").

licensed submarine cables, and the provision of switched services over international private lines will enable carriers to alter their corporate structure, change their call routing or expand service offerings without undue regulatory delay. By reducing the regulatory burdens associated with such changes, U.S. carriers will be able take advantage of competitive opportunities in a more efficient manner, providing benefits that will eventually inure to the benefit of U.S. consumers.

## **II. Argument**

The Commission should adopt proposed Rule 63.24 allowing carriers to engage in *pro forma* transfers of control and assignments without seeking formal Commission approval.<sup>2</sup>

Carriers often have the need to engage in corporate restructuring or other intracorporate transactions that will provide substantial financial, operational or administrative benefits to the company. To the extent that regulatory approval may delay or impede such transactions, FaciliCom supports the Commission's efforts to eliminate the requirement to seek such approvals prior to the consummation of these transactions.

Additionally, FaciliCom supports the proposed amendments of Sections 63.18(e)(1) and 63.15(a) of the Commissions Rules that will allow a carrier to use the facilities of a non-U.S. licensed undersea cable system without explicit authorization from the Commission.<sup>3</sup> Such a change has multiple benefits. First, it allows carriers to locate and utilize lower cost routing options by expanding the number of facilities options that carriers have. Second, it effectively increases the total available capacity for U.S. carriers, allowing carriers to consider increased

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<sup>2</sup>Notice at ¶¶ 12- 21.

<sup>3</sup>Notice at ¶¶ 23-27.

product offerings including advanced services which may have extensive bandwidth and capacity requirements. Finally, by eliminating the presumption against non-U.S. licensed cables systems,<sup>4</sup> U.S.-licensed carriers can seek to negotiate for capacity on cable systems globally, free from concerns regarding possible regulatory delays affecting capacity options.

Finally, proposed Rule 63.16, which allows a carriers to seek approval to provide switched services over resold private lines, or International Simple Resale ("ISR"), via declaratory ruling rather than formal application pursuant to Section 214, is a positive change that eliminates unnecessary delays and expenses associated with Section 214 filings. As the *Notice* observes, the first authorization to provide ISR to a particular country benefits not only the applicant but also all other carriers.<sup>5</sup> Moreover, under the Commission's benchmark policy, once the settlement rate to a WTO member country reaches the benchmark level, the requirements to receive authorization to provide ISR are met, and authorization would become available as a matter of course, once any carrier filed for authorization to that destination.<sup>6</sup> Streamlining these rules in the proposed manner is thus a positive change.

The Commission can, however, go further in this area, especially with petitions filed under the Commission's benchmark policy. Because a petitioner would need only demonstrate that at least fifty percent of the traffic to a destination is settled at or below the benchmark rate, there are no real issues of fact for the Commission to evaluate. Thus, FaciliCom proposes that

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<sup>4</sup> *Notice* at ¶ 25.

<sup>5</sup> *Notice* at ¶ 41.

<sup>6</sup> *International Settlement Rates*, IB Docket No. 96-261, *Report and Order*, August 18, 1997, at ¶ 243.

the proposed rule be amended to allow a petition that seeks approval of ISR to a WTO member country that has reached the benchmark be deemed effective when publicly noticed, rather than at the expiration of a public notice period. This shortened approval process will allow carriers to move quickly to provide service in competitive markets at the lowest possible costs without undue delay. Thus, with this change, the Commission will successfully streamline the approval process for providing switched service over resold private lines, and also enhance the Commission's benchmark policy.

### **III. Conclusion**

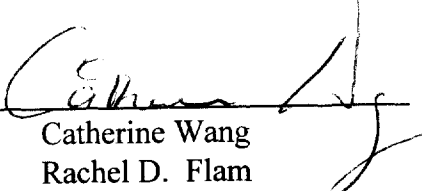
The market for international communications is sufficiently competitive, with both U.S. and foreign carriers participating. To extent that this Commission can eliminate or streamline unnecessary or unduly burdensome regulations, these new rules will enable U.S. carriers to compete more effectively with one another and with foreign carriers. By minimizing the need to seek explicit Commission approval for carriers engaging in *pro forma* transactions, utilizing non-U.S. licensed submarine cable capacity, and providing switched service over resold private lines, the Commission will enable U.S. carriers to move quickly to meet market demands and seize competitive opportunities without unnecessary regulatory delays; ultimately, these changes will

benefit consumers by providing them with lower cost, higher quality services throughout the international telecommunications marketplace.

Respectfully Submitted,

**FACILICOM INTERNATIONAL, L.L.C.**

By: \_\_\_\_\_

  
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